

STATE OF SOUTH CAROLINA

(Caption of Case)

IN RE:

OPERATION BY KAPSTONE CHARLESTON
KRAFT, LLC PURSUANT TO S.C. CODE ANN. §
58-3-240

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

DOCKET
NUMBER: _____

193977
ND-2008-4-A

(Please type or print)

Submitted by: John J. Pringle, Jr.

Address: Ellis, Lawhorne & Sims, PA

PO Box 2285

Columbia SC 29202

SC Bar Number: 11208

Telephone: 803-343-1270

Fax: 803-799-8479

Other: _____

Email: jpringle@ellislawhorne.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for use by the Public Service Commission of South Carolina for the purpose of docketing and must be filled out completely.

DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition

☒ Request for item to be placed on Commission's Agenda expeditiously

☒ Other: Motion associated with informational filing - Non-Docketed Matter

INDUSTRY (Check one)

- ☐ Electric
☐ Electric/Gas
☐ Electric/Telecommunications
☐ Electric/Water
☐ Electric/Water/Telecom.
☐ Electric/Water/Sewer
☐ Gas
☐ Railroad
☐ Sewer
☐ Telecommunications
☐ Transportation
☐ Water
☒ Water/Sewer
☐ Administrative Matter
☐ Other: _____

NATURE OF ACTION (Check all that apply)

- | | | |
|--|--|--|
| <input type="checkbox"/> Affidavit | <input type="checkbox"/> Letter | <input type="checkbox"/> Request |
| <input type="checkbox"/> Agreement | <input type="checkbox"/> Memorandum | <input type="checkbox"/> Request for Certification |
| <input type="checkbox"/> Answer | <input checked="" type="checkbox"/> Motion | <input type="checkbox"/> Request for Investigation |
| <input type="checkbox"/> Appellate Review | <input type="checkbox"/> Objection | <input type="checkbox"/> Resale Agreement |
| <input type="checkbox"/> Application | <input type="checkbox"/> Petition | <input type="checkbox"/> Resale Amendment |
| <input type="checkbox"/> Brief | <input type="checkbox"/> Petition for Reconsideration | <input type="checkbox"/> Reservation Letter |
| <input type="checkbox"/> Certificate | <input type="checkbox"/> Petition for Rulemaking | <input type="checkbox"/> Response |
| <input type="checkbox"/> Comments | <input type="checkbox"/> Petition for Rule to Show Cause | <input type="checkbox"/> Response to Discovery |
| <input type="checkbox"/> Complaint | <input type="checkbox"/> Petition to Intervene | <input type="checkbox"/> Return to Petition |
| <input type="checkbox"/> Consent Order | <input type="checkbox"/> Petition to Intervene Out of Time | <input type="checkbox"/> Stipulation |
| <input type="checkbox"/> Discovery | <input type="checkbox"/> Prefiled Testimony | <input type="checkbox"/> Subpoena |
| <input type="checkbox"/> Exhibit | <input type="checkbox"/> Promotion | <input type="checkbox"/> Tariff |
| <input type="checkbox"/> Expedited Consideration | <input type="checkbox"/> Proposed Order | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Interconnection Agreement | <input type="checkbox"/> Protest | |
| <input type="checkbox"/> Interconnection Amendment | <input type="checkbox"/> Publisher's Affidavit | |
| <input type="checkbox"/> Late-Filed Exhibit | <input type="checkbox"/> Report | |

Print Form

Reset Form

RECEIVED
2003 JUL 18 10:11:08
GOV. OFF. SERVICE
GOV. OFF. SECTION

)
)
)
)
)
)
)
)

John J. Pringle, Jr.
Ellis, Lawhorne & Sims, P.A.
 1501 Main Street, 5th Floor
 Columbia, South Carolina 29202-2285
 (803) 343-1270 (Tel)
 (803) 799-8479 (Fax)
jpringle@ellislawhorne.com

BACKGROUND

On July 1, 2008, KS-SC purchased MeadWestvaco South Carolina, LLC's ("MV-SC's") unbleached uncoated kraft mill located in North Charleston, SC (the "Mill"). Following the transaction, MV-SC is continuing to operate its specialty chemicals business adjacent to the Mill, including a specialty chemicals facility (the "MCF") and a crude tall oil facility (the "CTO Plant"). These facilities are highly interconnected and exchange a number of goods and services. For example, the MCF refines tall oil soap, a byproduct recovered from the Mill, into rosin and fatty acids, which are then used for various applications. The MCF also makes products from the lignin found in spent pulping liquor received from the Mill. Additionally, the CTO Plant converts soap skimmings received from the Mill into crude tall oil. Accordingly, the parties executed the RPOA (also effective July 1, 2008) in order to memorialize their agreement for the ongoing interchange of chemicals and services between KS-SC and MV-SC.

Because the RPOA addresses the provision of certain utility services, KS-SC is filing the RPOA with the Commission and the South Carolina Office of Regulatory Staff ("ORS") for information purposes, pursuant to S.C. Code Ann. § 58-3-240, in order to satisfy the requirements of the "industrial park exemption" found therein.

ARGUMENT

The RPOA contains competitively sensitive information entitled to trade secret protection. The information contained within the RPOA fits squarely within the definition of a "trade secret" under the South Carolina Trade Secrets Act. A "trade secret" is defined in S.C. Code 39-8-20(5)(a) as information that "(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper

means by the public...and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.”

The RPOA contains proprietary and competitively sensitive information, and therefore this contains “trade secrets” entitled to confidential treatment. Among other things, the RPOA describes in detail the assets owned and operated by the parties, the operations of these facilities, the products produced and exchanged by and between the parties, and certain costs associated with operating the facilities. All of this information is competitively sensitive. KS-SC and MV-SC undertake considerable efforts to maintain the secrecy of the information contained in the RPOA. Information of this type is not publicly disseminated, and KS-SC and MV-SC take reasonable steps to guard this information. KS-SC and MV-SC would suffer substantial direct harm if the information contained therein is made publicly available. The harm that would result from public disclosure of the information contained in the RPOA is real and not speculative.

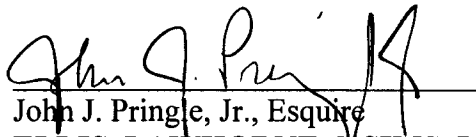
The South Carolina Freedom of Information Act also provides trade secret protection for the RPOA. S.C. Code Ann. Section 30-4-40(a) (1) (Supp. 2006) states that a public body may exempt “trade secrets” from disclosure, which include “commercially valuable plans” used “for the making, preparing, compounding, treating, or processing of trade commodities obtained from a person” As set forth above, the RPOA details and references numerous facilities, assets, and processes by which both KS-SC and MV-SC produce various products. This RPOA and its contents are “commercially valuable” to both KS-SC and MV-SC, and both parties undertake efforts to maintain the confidential nature of the RPOA.

The undersigned counsel has discussed this Motion with counsel for the South Carolina Office of Regulatory Staff (“ORS”) and understands that the ORS does not object to this Motion.

For the foregoing reasons, RPOA should be protected from public disclosure by the Commission.

WHEREFORE, KS-SC requests that the RPOA be ruled exempt from public disclosure and provided confidential treatment in accordance with S.C. Code Ann. § 39-8-10, *et seq.*, S.C. Code Ann. § 30-4-10, *et seq.*, S.C. Code Ann. Regs. 103-804(S)(2), and other applicable law, and grant such other relief as is just and proper.

Respectfully submitted,


John J. Pringle, Jr., Esquire
ELLIS, LAWHORNE & SIMS, P.A.
1501 Main Street, 5th Floor
P.O. Box 2285
Columbia, South Carolina 29202
Telephone: (803) 343-1270
Facsimile: (803) 799-8479

Attorneys for Kapstone Charleston Kraft, LLC

Columbia, South Carolina
July 18, 2008

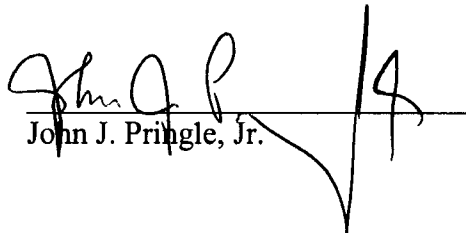
BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

IN RE: OPERATION BY KAPSTONE
CHARLESTON KRAFT, LLC
PURSUANT TO S.C. CODE ANN.
§ 58-3-40

CERTIFICATE OF SERVICE

This is to certify that I have caused to be served this day, one (1) copy of the **Motion for Confidential Treatment of Contract** by hand-delivering same to the address as follows:

VIA HAND-DELIVERY
Nanette S. Edwards, Esquire
Office of Regulatory Staff
1441 Main Street, Suite 300
Columbia, SC 29211


John J. Pringle, Jr.

July 18, 2008
Columbia, South Carolina

RECEIVED
2008 JUL 18 AM 11:08
SC PUBLIC SERVICE
COMMISSION